

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 7/8/2014	(3) CONTACT/PHONE James Caruso, Senior Planner / (805) 781-5702 Cheryl Cochran, Planner I / (805) 781-1366	
(4) SUBJECT Submittal of a status report on implementation of Ordinance No. 3246 adopted August 26, 2013 that limits new or expanded irrigated crop production, conversion of dry farm or grazing land to new or expanded irrigated crop production and new development dependent upon a well in the Paso Robles Groundwater Basin unless such uses offset their total projected water use and submittal of a resolution correcting resolution 2014-56 relative to outdoor water use for the New Development Water Conservation Program. Districts 1 and 5.			
(5) RECOMMENDED ACTION It is recommended that the Board: 1. Receive and file the status report. 2. Approve and instruct the Chairperson to sign the attached resolution correcting resolution 2014-56 relative to outdoor water use.			
(6) FUNDING SOURCE(S) Department Budget/Flood Control District reserves	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ____) <input checked="" type="checkbox"/> Board Business (Time Est. <u>75 min</u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>8-27-13 / 10-1-13 / 10-8-13 / 11-26-13 / 1-14-14 / 2-25-14 / 6-3-14</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 1 District 5			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / James Caruso, Senior Planner
Cheryl Cochran, Planner I

VIA: Kami Griffin, Assistant Director

DATE: 7/8/2014

SUBJECT: Submittal of a status report on implementation of Ordinance No. 3246 adopted August 26, 2013 that limits new or expanded irrigated crop production, conversion of dry farm or grazing land to new or expanded irrigated crop production and new development dependent upon a well in the Paso Robles Groundwater Basin unless such uses offset their total projected water use and submittal of a resolution correcting resolution 2014-56 relative to outdoor water use for the New Development Water Conservation Program. Districts 1 and 5.

RECOMMENDATION

It is recommended that the Board:

1. Receive and file the status report.
2. Approve and instruct the Chairperson to sign the attached resolution correcting resolution 2014-56 relative to outdoor water use.

DISCUSSION

Background

On August 27, 2013, your Board adopted Urgency Ordinance 3246 (Attachment A) to establish a moratorium on new or expanded irrigated crop production, conversion of dry farm or grazing land to new or expanded irrigated crop production, and new development dependent upon a well in the Paso Robles Groundwater Basin (Basin) unless such uses offset their total projected water use by a ratio of 1:1. The ordinance also requires the installation of meters on new wells associated with the above uses. The ordinance specifies uses that are not subject to the ordinance and contains exemptions including replacement wells for any of the prohibited uses. The ordinance applies to all properties located within the unincorporated areas of San Luis Obispo County that overlie the Paso Robles Groundwater Basin except those properties that overlie the Atascadero Sub-Basin, and properties served by County Service Area 16 and the San Miguel Community Services District.

The ordinance was extended for a full two years on October 8, 2013 (Ordinance 3247). The Urgency Ordinance will expire on August 26, 2015.

The following staff report will provide you a status report on implementation of the Urgency Ordinance. Staff is also requesting that your Board consider a minor correction to Resolution 2014-56 that established the New Development Water Conservation Program to reflect 170 gallons per day of outdoor water use instead of 180 gallons.

Urgency Ordinance

Exemptions from Urgency Ordinance.

The Urgency Ordinance sets forth a number of specified activities that are not subject to the ordinance. These include: existing irrigated crop production (including irrigation practices) in effect at the time of the adoption of the Ordinance, applications for building or land use permits accepted as complete prior to the time of the adoption of the Ordinance, and new agricultural ponds.

The Department is currently processing grading permit applications for four large agricultural ponds in the Basin. Although exempt from the requirements of the Urgency Ordinance, the processing of pond applications involves completion of an environmental determination pursuant to the California Environmental Quality Act (CEQA). This review will take into consideration water use and demand on the Basin.

Planning and Building and the Agricultural Commissioner's Office have been receiving calls from County residents expressing concern regarding existing irrigation practices (overhead irrigation, excessive run-off, broken irrigation pipes, etc.). In these cases, the Agricultural Commissioner's Office does offer to make contact with the grower to inform them of the concern raised. The Urgency Ordinance specifically exempts existing irrigation practices and the County does not currently have regulations that address these practices.

Also included in the Urgency Ordinance was an exemption based on evidence that a vested right existed prior to adoption to establish a new irrigated agricultural crop. On November 26, 2013, your Board approved a resolution that established the procedures and standards for the Department to use when making a vested right determination (Attachment B). Prior to August 27, 2013, an applicant must have had:

- A valid well permit and the well drilled or a contract for well drilling
- Ownership of the property or entered into a lease specifically for the purposes of agriculture

Also for permanent crops, evidence of three of the following items (dated prior to August 27, 2013):

- Contract and deposit for plants that you are going to plant
- Contract and deposit for design and installation of irrigation infrastructure
- Fencing installed
- Contract for provision of product within the timeframe that the Urgency Ordinance is in effect.

There are slightly different requirements for annual crops and for sites of 20 acres or less, as only the first two bullets (well permit and ownership) are necessary to prove a vested right.

Attachment C is a list of all requested vested right exemption requests. There have been 32 requests made and 27 approved (Attachment D is a map of the approved requests). The following table summarizes the vesting right exemption requests that have been approved.

NEW IRRIGATED CROP TYPE	ACREAGE OF NEW IRRIGATED CROP TYPE
Vineyard	1,712.48 acres
Olive Orchard	25 acres
Pistachio Orchard	80 acres
Alfalfa	26 acres
Oak Tree Orchard (Truffles)	10 acres
All Crop Types (total)	1,853.48 acres

Environmental Health and Planning and Building have also developed a system to address new well drilling that is either exempt from, or not subject to, the Ordinance, as defined in the Ordinance. There have been 19 of these exemptions granted to date. The majority of these are for replacement wells, with a number of permits being issued to drill wells in advance of development. In these cases, applicants are being informed that at the time a use is established, they will be required to offset their new water use.

Offset Clearances

New or expanded irrigated crop production, conversion of dry farm or grazing to new irrigated crop production and new development dependent upon a well in the Basin are required to obtain an Offset Clearance prior to issuance of a permit for the use being established. The Offset Clearance is issued when evidence has been provided that shows that the new water demand has been offset by a ratio of at least 1:1.

New Development Offset Program

On February 25, 2014, your Board approved Resolution 2014-56 adopting an approved water conservation program for new development consistent with the requirements of the Urgency Ordinance (Attachment E). On June 3, 2014, your Board approved a contract with Wallace Group to implement and manage the program.

In order to identify potential candidates for retrofitting, staff has sent postcards to the owners of 900 pre-1994 homes that overlie the Paso Robles Groundwater Basin, as those homes are more likely to have older, less efficient toilets. An additional 1,800 addresses of potential pre-1994 homes have been identified.

As of June 19, 2014, 19 houses overlying the Paso Robles Groundwater Basin have received plumbing retrofits through the program, and approximately 18 more are on the list to be scheduled. The completed retrofits resulted in a combined total savings of 1,033 gallons per day (1.16 acre feet per year). This amount is now available to purchase as credits to offset the water usage of close to four new dwellings. As of June 19, 2014, one new development applicant has purchased 280 credits from the program, enough to offset one single family dwelling unit. 753 credits are currently available for purchase.

COMPLETED RETROFITS AND CREDITS				
Houses Retrofitted	Credits Generated	Avg Gallons Saved Per Retrofit	Credits Used	Credits Available
19	1,033	54	280	753

The average savings per retrofitted home of 54 gallons per day is higher than the program's estimated savings of 40 gallons per day per home. The difference is due to a higher than expected prevalence of older 5-6 gallon-per-flush toilets instead of the more common 3.5 gallon-per-flush toilets. Staff does not expect to find too many more of these older toilets. However, if a substantial number of these toilets are found, the cost of retrofit credits may have to be adjusted downward due to the greater than expected water savings per retrofitted home. In that case, partial refunds may have to be made to those applicants that purchased credits.

The table below shows the permits in process to date. Assuming all applicants choose to offset the standard amount of water usage for their new development through the County's program, an additional 5,587 credits will be needed to offset this new water usage. Generating this number of credits would require retrofitting an additional 140 homes. This information is only as of the date of preparation of this staff report and does not reflect additional permit applications submitted while the Ordinance is in effect.

PERMITS IN PROCESS		
Type of Development	Permits in Process	Estimated Credits Needed
Guesthouses	2	70
Secondary Units	2	390
Single Family Dwellings	21	5,880
TOTAL	25	6,340

Agricultural Offset Program

On March 18, 2014, your Board approved a contract with the Upper Salinas-Las Tablas Resource Conservation District (RCD) for development and management of an agricultural water conservation program to implement the Urgency Ordinance.

The Agricultural Water Offset Feasibility Study prepared by the RCD concluded:

“Although it is feasible to develop an AG Water Offset Program, careful consideration and evaluation will be needed to successfully develop and implement the program.”

The Draft Ag Water Conservation Offset Program looks at offset scenarios such on site crop conversions, same ownership conversions but separate parcels, and different ownership and different parcels. The last scenario continues to be the most difficult to address. Offsets on different sites must take into account the proximity of new pumping to the offset pumping area. The RCD has proposed using a proximity analysis that aims to maintain groundwater levels in spite of the new pumping. The RCD’s project manager for this program will present the Draft Ag Water Conservation Offset Program at the Board meeting (see Attachment F).

Until such time as the RCD develops and presents a program to your Board for approval, staff has been using published mid-range water duties (e.g. 2009 Todd Pumping Update; 2012 Master Water Report) to issue Offset Clearances for crop conversions on the same property only. Staff has advised individuals who wish to use other information to determine water use or to establish a new crop on a parcel that is different from the parcel where the crop is being removed to wait for the program to be approved by the Board of Supervisors in late 2014. If there is an interest in doing a “paired” offsite offset prior to approval of the Agricultural Offset Program, additional information would be necessary to complete a proximity analysis that aims to maintain groundwater levels in spite of the new pumping.

To date, there have been 12 requests for Agricultural Offset Clearances. Seven have been issued, one has been put on hold at the applicant’s request until a program is approved by the Board of Supervisors, and four require additional information to be submitted and reviewed before they can be issued.

The following table summarizes the Agricultural Offset Clearances that have been approved to date:

EXISTING/RETIRED CROP TYPE	ACREAGE	WATER USE (ACRE-FEET/ YEAR)	PROPOSED CROP TYPE	ACREAGE	WATER USE (ACRE-FEET/ YEAR)
Olive Orchard	50	115	Vineyard	92	115
Alfalfa	100	450	Vineyard	360	450
Pasture	18.2	109.2	Vineyard	62.5	78.2
Alfalfa	80	299	Vineyard	80	100
Citrus Orchard	9	20.7	Vineyard	16.56	20.7
Melons/Other truck crops in rotation	65	104	Melons/Carrots (rotational)	65	104
Carrots	793.56	1,666	Vineyard	1,332.8	1,666

To date, the Planning and Building Department has received 15 enforcement complaints. Most have involved questions about site preparation or planting. The majority of these instances were sites that had a vested right exemption or an Offset Clearance issued. Approximately 5 complaints required follow-up action. In these cases a letter was sent to the property owner notifying them of the requirements of the Urgency Ordinance. In a majority of the cases no planting had yet occurred. Therefore the notice informed the owner that no planting could happen until there was compliance with the ordinance.

Future Amendments-Countywide Water Programs

On March 4, 2014, your Board authorized staff to begin the process to amend several County ordinances and policies related to countywide water resources. These policies are set forth in the Conservation and Open Space Element (COSE) of the County General Plan and will also address countywide water resource policies and strategies as contemplated in the Urgency Ordinance. Your Board authorized processing of the following water conservation-related amendments:

- New Landscape Requirements
- Retrofit-on-Sale
- Water Waste
- Water Neutral New Development
- Water Supply Assessments for New Subdivisions

On May 20, 2014, your Board provided additional direction regarding the authorized amendments. Your Board authorized staff to expand the previously authorized new landscape requirement program to include an, "...incentive-based program that will result in landscape water reductions."

Staff will be processing these amendments over the next 6 to 9 months, including referrals to applicable agencies, departments and advisory groups (including the Water Resources Advisory Committee and the Agricultural Liaison Advisory Board), completion of environmental review, and hearings before the Planning Commission and your Board.

Revision to Resolution 2014-56

Also included today is a request for your Board to approve a minor correction to Resolution 2014-56 (Attachment F) that established the New Development Water Conservation Program. Upon implementation of this resolution, it was discovered that there was an error in the number of gallons for outdoor water use. Paragraph 8 states that outdoor water use is assumed to be 180 gallons per day. That number should be 170 gallons per day. An attached resolution (Attachment G) corrects this error.

OTHER AGENCY INVOLVEMENT/IMPACT

The department regularly coordinates with County Counsel, Public Works, Agriculture Commissioner's Office, and Environmental Health on water issues and implementation of the general plan. The Environmental Health Department coordinates responses and permitting associated with new well drilling. Outreach to applicable agencies, departments and advisory groups will be completed as part of the processing of the authorized amendments.

FINANCIAL CONSIDERATIONS

The Urgency Ordinance was prepared under the Department's current budget. Implementation of the New Development Water Conservation Program is being completed by a consultant under contract to the County. The contract was approved on June 3, 2014 for up to \$326,000 with the Wallace Group. The Department will recoup program costs as offset credits are purchased by new development applicants. The Resource Conservation District is working under a contract to prepare the Agricultural Offset program. The contract was approved on March 18, 2014 in the amount of \$158,609.39 from the San Luis Obispo County Flood Control District reserves. The Flood Control District reserves are also covering the cost of one limited term FTE position assigned to the Department for implementation of the Urgency Ordinance (maximum yearly salary and benefit cost \$114,365).

RESULTS

Implementation of the adopted Urgency Ordinance is consistent with the countywide goals of a safe, livable, healthy and well governed community. Approving the resolution will correct Resolution 2014-56 will correct by changing outdoor water use from 180 to 170 gallons per day.

ATTACHMENTS

Attachment A – Adopted Urgency Ordinance 3246
Attachment B – Vested Right Resolution
Attachment C – Table of Vested Right Requests
Attachment D – Map of Approved Vested Right Requests
Attachment E – New Development Water Conservation Program - Resolution 2014-56
Attachment F – RCD Draft Ag Water Conservation Offset Program
Attachment G – Revised Resolution